

From: John Callaway
To: Microsoft ATR
Date: 1/23/02 8:19pm
Subject: Microsoft Settlement

I am writing to express my strong displeasure with the Department of Justice's proposed settlement with Microsoft in the antitrust case. Enumerating all the flaws with this settlement would take too much of my and your time, so I will restrict my comments to the aspects of the proposed settlement relating to Microsoft's licensing contracts with personal computer original equipment manufacturers (OEMs).

As I understand it, the settlement does little to prevent Microsoft from continuing its anticompetitive practices that prevent OEMs from offering rival operating systems, such as Linux and BSD, preinstalled on their systems. For example, section III.A.2 specifically allows Microsoft to retaliate against OEMs that sell a computer with a rival operating system but without a Microsoft operating system. This is essentially a legally sanctioned tax collected by Microsoft, especially considering that the open-source operating systems I mentioned are free. The settlement also appears to specifically allow Microsoft to set any contract terms they like with smaller OEM vendors (any other than the 20 largest), which is clearly anticompetitive.

I will recount a personal experience of mine that illustrates the costs imposed on the consumer by Microsoft's restrictive OEM licenses, even those consumers who choose a Microsoft operating system. About a year ago, I helped my parents choose a computer at a Gateway 2000 store in Overland Park, Kansas. We selected the system that met our price and performance criteria, which was part of Gateway's "home" line of systems. We then asked to have Windows 2000 preinstalled on the machine instead of Windows ME, because of the superior stability and performance of the former operating system. Our sales representative informed us that this would be impossible, since Microsoft's license with Gateway stipulated that their home line of computers MUST be shipped with Windows ME (at that time, in December 2000). We therefore had to settle for one of their "small business" computers, which was not as feature-rich as the home computer we selected and cost several hundred dollars more.

Thank you very much for reading my comments, and I hope that this harmful settlement is discarded and appropriate remedies imposed on Microsoft instead.

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